

REMARKS

The Examiner rejected the pending claims under the judicially created obviousness-type-double patenting. Applicant notes that there was a provisional rejection and that, at present, USSN 10/084,603 has not been allowed. Applicant respectfully submits that the rejection should be withdrawn. Should the Examiner maintain the rejection, Applicants are prepared to obviate the rejection.

The Examiner has also rejected the original and claim as anticipated by U.S. Patent 5,826,369 to Jordan or as obvious in lieu of its teachings. Applicant respectfully submits that new claims 1 to 54 are not anticipated by the '369 patent.

As the Examiner noted, the '369 patent teaches a fuel additive comprising beta-carotene, chlorophyll, ethoxylated castor oil, jojoba oil and alkyl nitrates. The present claims do not include jojoba oil or contain plant extracts other than those defined in the '369 patent. Thus the '369 patent does not anticipate the pending claims.

With respect to the obvious rejection, there is nothing within the '369 patent to teach or suggest using the plant extracts presently claimed or the oils claimed.

The teaching or suggestion to make the substitution must come from the reference itself. Thus the new claims are not obvious in light of the teachings of the '369 patent.

Turning to the Schur patent, it does not anticipate the pending claims. No where does Schur teach the use of the specific plant extracts recited in the claims nor does it disclose the plant oils used in the invention. Thus it does not anticipate the present claims.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

CONCLUSIONS

Applicant submits that the new claims are free of the art and will be considered for allowance.

Applicant believes there is a fee due with this response, which is attached. However, additional fees are due, please charge our Deposit Account No. 06-2375, under Order No. P02917US0 (AKA ORYXE.022A) from which the undersigned is authorized to draw.

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Respectfully submitted,

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